HON'BLE SRI G.S.SINGHVI, THE CHIEF JUSTICE

Writ Petition No: 11718 of 1996

Between:

Kod Ramulu and 7 others

..... PETITIONERS

AND

Secretary to Government of A.P.

Irrigation & Command Area Development

(Irrigation VII,2) Department,

Secretariat Buildings,

Hyderabad and another.

.....RESPONDENTS

::ORDER::

Counsel for the Petitioners : MR. Nazeer Khan

Counsel for Respondents : Government Pleader for Land Acquisition.

Dated 19/4/2006

Feeling aggrieved by award dated 15.3.1996/6.4.1996 passed by the Land Acquisition Officer-cum-Revenue Divisional Officer, Adilabad, (respondent No.2), whereby he awarded compensation at the rate of Rs.1,000/- per acre for the improvements done in the lands assigned to them, the petitioners have invoked the jurisdiction of this Court under Article 226 of the Constitution of India and have prayed that respondent No.2 may be directed to pass fresh award keeping in view the guidelines contained in G.O.Ms.No.1307, Revenue (Assignment) Department dated 23.12.1993.

The petitioners claim to be landless poor persons. Some of the petitioners and predecessors of the remaining petitioners were assigned government lands in Lachimpur village, Talamadugu Mandal, Adilabad District some time in the year 1960. They claim to have made improvements and started cultivating the lands. The

State Government took possession of the lands on 26.4.1991 for a public purpose, viz., formation of tank at Lachimpur village. After three years of taking possession, notification dated 27.4.1994 was issued under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the 1894 Act'). This was followed by a declaration under Section 6 of the Act, which was published on 24.1.1995. After another one year and two months, respondent No.2 passed award dated 15.3.1996, which was published on 6.4.1996. He held that assignees of government lands were entitled to compensation in lieu of improvements carried out by them only and not for the land itself and accordingly passed award for payment of compensation at the rate of Rs.1,000/- per acre. The petitioners received compensation and then filed petition under Section 18 of the 1894 Act for reference, but the same was not considered by the competent authority.

After about two months of the pronouncement of the award, the petitioners instituted this petition for issuance of a mandamus to the Land Acquisition Officer to pay enhanced compensation in terms of G.O.Ms.No.1307, Revenue (Assignment) Department dated 23.12.1993.

In the counter affidavit filed by Sri Janardhana Rao, the then Land Acquisition Officer, it has been averred that in their capacity as assignees of the land, the petitioners are entitled to be paid compensation only for the verifiable improvements made on the acquired land and for the land. He further averred that compensation at the rate of Rs.1,000/- per acre with 30% solatium and 12% additional market value has already been paid to the petitioners.

Learned counsel for the petitioners relied on G.O.Ms.No.1307 dated 23.12.1993 and argued that his clients are entitled to higher compensation in accordance with the revised guidelines issued by the State Government. He also relied on the judgment of the Full Bench of this Court in **State of A.P vs. P.Pedda Chinnayya** and of the Larger Bench in **State of A.P. vs. Kondapalli Sanyasi** and argued that the Court should ordain the respondents to pay higher compensation to the petitioners notwithstanding the fact that they had voluntarily accepted the compensation.

Learned Government Pleader for Land Acquisition argued that the lands assigned to

the petitioners were not resumed in accordance with the terms and conditions of grant but were acquired under the 1894 Act and, therefore, they cannot claim compensation in terms of G.O.Ms.No.1370 dated 23.12.1993, which governs the payment of compensation in lieu of resumption of the assigned lands. He also pointed out that the remedy, if any, available to the petitioners for enhancement of compensation was to seek reference under Section 18 of the 1894 Act, which they failed to avail.

I have considered the respective arguments and perused the record. A reading of G.O.Ms.No.1307 dated 23.12.1993 makes it clear that the policy contained therein is applicable to the cases where the assigned lands are resumed. The Government, after considering the earlier G.O.Ms.No.180 Revenue (B) Department dated 9.2.1984 and G.O.Ms.No.608 Revenue (B) Department dated 28.5.1986, issued the revised guidelines for payment of compensation to the assignees in lieu of resumption of their lands for projects and other public purposes. The relevant extract of the above mentioned G.O.Ms.No.1307 reads as under.

> "The Government after careful examination of the matter in consultation with the Commissioner of Land Revenue, Irrigation and Command Area Development Department and Finance Department hereby the payment of lump sum exgratia equivalent to the market value, the assignees whose lands are resumed for the projects and other purposes and equivalent to valuation for other private chards and structures, wells etc., removing the distinction stipulated in para (3) of G.O.Ms.No.428 Revenue (Ann.I) Department 25.4.1992 subject to the following conditions:-

a. That the amount is to be treated at ex-gratia

b. That the assignees would not be entitled making reference

under Section 18 and Section 28-A of Land Acquisition Act to the Courts.

c. An amount equivalent to 15% for the lands resumed prior to 30.4.1982 and 30% after that date on the market value payable under Section 2J (1) of Land Acquisition Act may be considered for being included in the total ex-gratia payable to the assignees as solatium;

d. That the assignees will not be entitled for interest or additional market value under the Land Acquisition Act.

e. That the above conditions shall be made applicable to all the assigned lands resumed on after 9.9.1984 i.e. the date of issue of G.O.Ms.No.180 Revenue dated 9.2.1984 in super session of G.O.Ms.No.43, Revenue(B) Department dated 23.1.1988.

The Commissioner of Land Revenue shall take action in the matter accordingly."

In my opinion, the petitioners are not entitled to avail the benefit of enhanced compensation in terms of G.O.Ms.No.1307 dated 23.12.1993 because as mentioned above, their lands had been acquired under 1894 Act and were not resumed in accordance with the terms and conditions of grant.

No other point has been argued.

For the reason stated above, the writ petition is dismissed.

G.S.SINGHVI, CJ

Dt.19.4.2006

Msv/vtv